

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13201, of Ernest Waller, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3105) to use all offices in an R-5-D District at the premises 1017 - 4th Street, N.W., (Square 526, Lot 808).

HEARING DATE: June 11, 1980
DECISION DATE: October 1, 1980

FINDINGS OF FACT:

1. The subject application was scheduled for the public hearing of April 16, 1980. The applicant requested a postponement since he would not be available on April 16, 1980. The Board granted a continuance to June 11, 1980.

2. The subject property is located on the east side of 4th Street between K and L Streets and is known as premises 1017 - 4th Street, N.W. It is in an R-5-D District.

3. The subject site is rectangular in shape and is approximately 2,552 square feet in area. The site is improved with a two story plus basement structure. The structure has been vacant for several years.

4. The applicant proposes to use all floors of the subject premises as professional offices.

5. On June 1, 1951, Certificates of Occupancy were issued for the use of the subject property as a church and a church eating room for serving lunch to members (basement).

6. The subject site is located within the boundaries of the Downtown Urban Renewal area and is immediately east of the former Wax Museum property which is on Square 516 and which is currently being developed with some 450 apartment units. The Urban Renewal Plan designates that portion of the subject Square 526 not included in the North Central Freeway right-of-way for high density residential use.

Immediately adjacent to the subject Lot 808 on the north and south are vacant lots. Approximately one half of Square 526 is vacant. There are a number of one, two and three story structures at the southern end of the square along K Street. Most of these are devoted to commercial uses or are vacant. Square 526 is split zoned with the northern half R-5-D and the southern half C-2-B. The R-5-D District extends northward to M Street and includes New York Avenue between 7th and 3rd Streets. South of Eye Street an SP-2 District adjoins the C-2-B District.

7. The subject property was purchased by the applicant on September, 1979. The applicant testified that he had intended to use the property as a multiple family unit but that this is no longer feasible because of the conditions prevalent in the immediate vicinity. The applicant cited the existence of a liquor store in the immediate area at the northeast corner of K and 4th Streets, the presence of derelicts on the street, vacant lands, boarded-up houses, and empty lots littered with bottles, all such factors not being conducive to family living. The applicant further testified that he had talked with several other owners of land and properties in the immediate area and that they had no plans to develop their properties in any manner.

8. The Office of Planning and Development by report, dated June 6, 1980 recommended that the application be denied. The OPD reported that the applicant had not demonstrated that the subject property could not be used for residential purposes. In addition, the OPD was of the opinion that there does not appear to be any physical attributes associated with this property which appear unique or singularly unusual that would place an undue hardship upon the owner of support the grant of a use variance. The applicant has not indicated any additional factors which would justify the grant of a use variance as required by Paragraph 8207.11 of the Zoning Regulations. Further, OPD reported that residential development is occurring in the area, which fulfills the intent of the change in zoning from commercial to residential. For the above reasons, OPD believed that approval of this request for a use variance would be inconsistent with the intent and purpose of the Zoning Regulations and maps. For the reasons stated below in the conclusions of law, the Board does not concur with the recommendation of the OPD.

9. There was no opposition to the application at the public hearing or of record. There was one letter on file in favor of the application. It was from a business office concerned with the management of real property. It suggested that all the lots fronting on the east side of 4th Street, N.W., be rezoned from R-5-D to C-3-B.

10. Advisory Neighborhood Commission-2C made no recommendation on the application.

11. At the close of the public hearing the Board left the record open for the applicant to submit further evidence in support of the relief requested with emphasis on the uses of the structures and sites in the immediate area and a further clarification of the character of the neighborhood.

12. In reply, by letter of August 8, 1980, the applicant submitted further exhibits evidencing as follows:

- a. 1019 and 1021 - 4th Street (lots 808 and 809 Square 526 respectively), adjacent to the subject property, are now vacant lots.
- b. 1023 - 4th Street is a single family dwelling which now houses the office of a spiritual reader.
- c. 1025, 1027, 1029 and 1031 - 4th Street are single family tenement flats. There are no other houses between these houses and New York Avenue. Previous buildings were razed to make room for the Center Leg-Inner Loop Freeway.
- d. Adjacent and on the south side of the subject property is lot 828, zoned C-2-C. This is vacant land owned by the District of Columbia Government, and is used as a playground. This area is the gathering point and habitat of street people. The property is constantly littered with alcohol and other beverages bottles. Next to the playground is an apartment building which faces 4th Street. This building also houses a liquor store which is on the northeast corner of K and 4th Streets.
- e. Across the street and directly in front of the subject property is a high-rise apartment building which is being constructed for senior citizens.
- f. On the southeast corner of 4th and K Streets is a service station. On the southwest corner of 4th and K Streets is a restaurant/club overshadowed by the

Chester Arthur office building.

In the letters of August 8, 1980 the applicant stated that the character of the neighborhood with a liquor store, a service station and a bar on the corner of 4th and K Streets along with the fact that the neighborhood is a gathering place for alcoholics and derelicts, give credence and further logic that a variance for use of the subject property would greatly enhance and improve the character of the neighborhood.

The applicant further stated that additionally, the building appears to have sufficient footage including all floors and the basement for four or five one-bedroom or efficiency apartments. The cost of reconfiguring, rehabilitating and modernizing the building to accommodate four or five units would be approximately \$20,000 to \$25,000 per unit. To this amount must be added the acquisition cost of approximately \$30,000, for a total cost of \$130,000 to \$155,000. Such cost would render the conversion of this building for apartments of this size economically impractical and unfeasible based on anticipated rental income. On the other hand to restore the building for office use would cost less than half as much as for multifamily use and provide a margin for reasonable return on the overall investment.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a variance from the use provisions which requires a showing of a hardship upon the owner of the property which is inherent in the property itself. The Board concludes that the hardship is in the property because of its isolation standing alone among vacant lots and scattered boarded-up houses and a freeway in the immediate area boarding the property to the rear. The subject street and the immediate area is not conducive to restoring the structure for the purpose for which the area is zoned. The Board concludes that the structure is not suitable, for all intents and purposes, for residential living. The Board further concludes that the relief can be granted without substantial detriment to the public good. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that the use shall be limited to the type of office uses permitted in the SP District as set forth in the Zoning Regulations.

VOTE: 3-1 (Connie Fortune, Charles R. Norris and Leonard L. McCants to GRANT; William F. McIntosh OPPOSED; Ruby B. McZier not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 1 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.